

Questions to Dr Armendariz – Region 6 EPA Director – Meeting 9-9-11

In September 2009, the citizens' groups Citizens Residents Oppose Wells (CROW) and Stop the Toxic Wells sent a letter to the EPA Region 6 office requesting a meeting with appropriate EPA staff to address questions and concerns outlined therein relating to UIC permit applications submitted to the TCEQ by TexCom Gulf Disposal, LLC for four Class I commercial waste disposal wells and a surface facility in Montgomery County. In response to our request, Philip Dellinger and Jose Torres of the EPA UIC staff and Yerusha Beaver, an EPA attorney met with us in November 2009. They advised however, that since the permit approval process had not been completed at that time, the EPA could not respond directly to the specific questions that we had submitted. Instead, they explained how the UIC regulations promulgated under the federal Safe Drinking Water Act had been delegated to the state agencies for enforcement (in TX, the TCEQ). They further advised that the EPA merely serves in an "oversight role" to insure that the permit approval process for said program is being appropriately administered by the TCEQ and the EPA does not have the authority to intervene on a "case by case" basis on UIC permits. Since that time, after a second contested case hearing before the SOAH judges in June 2010, the permits were subsequently approved in January 2011 by a 2 to 1 vote by the TCEQ Commissioners (Shaw & Garcia for approval, Rubenstein against approval.)

We understand the EPA's role is one of oversight of the delegated UIC permitting process and underlying laws do not allow you to intervene on a case by case basis in relation to these permits. However we also understand that the EPA can invoke "emergency authority" when there is an "imminent and substantial danger of endangerment to human health or the environment." In consideration of the many technical misrepresentations, inadequacies and failure to comply with the underlying regulations as outlined in the attached document, we feel that TCEQ's approval of these permits poses an "imminent and substantial danger of endangerment to human health or the environment." We therefore, appeal to you as the Region 6 Director to strongly consider exercising your "emergency authority" in relation to these permits.

Therefore, we draw your attention to following issues:

- As outlined in the attached document prepared by one of our expert witnesses, Art Wilson, the permit applications included many misrepresentations, inadequacies and in some instances failed to comply with underlying regulations;
- As outlined in a March 10, 2011 letter sent to the TCEQ by Stacey B. Dwyer, P.E., Associate Director of the Source Water Protection Branch of the EPA, the permit applications included inaccuracies in the site geology and injection zone characteristics as identified by EPA UIC specialists;

We look forward to opportunity to meet with you and thank you for taking time from your busy schedule to discuss these matters with us.

Respectfully submitted,

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Attachments